

# MISSOURI LAKE NUTRIENT CRITERIA (MISSOURI)

## ISSUE SUMMARY:

In December 2019, the Missouri Coalition for the Environment (“MCE”) brought an action against the EPA under the Administrative Procedure Act in the U.S. District Court for the Western District of Missouri. MCE alleges that the EPA acted in an arbitrary and capricious manner when EPA approved Missouri water quality standards for approximately 300 lakes within the state in December 2018. The standards are intended to protect designated uses of the lakes from nutrients impacts.

## UPCOMING MILESTONES:

- MCE’s Brief in Support of Motion for Summary Judgment was filed on September 25, 2020.
- EPA’s Opposition Brief and Cross-Motion for Summary Judgment is due on or before November 10, 2020.
- MDNR’s Brief in Support of Defendant is due on or before November 10, 2020.
- MCE’s Reply and Opposition to Cross Motion due on or before November 30, 2020.
- EPA’s Reply Brief is due on or before January 15, 2021.
- MDNR’s Reply Brief in Support of Defendant is due on or before January 15, 2021.

## BACKGROUND:

EPA disapproved Missouri’s first effort to develop lake nutrient criteria in 2011. MCE filed a mandatory duty lawsuit in 2016 after a delay in in Missouri submitting replacement criteria and EPA promulgating federal criteria. The 2016 lawsuit was resolved with a Consent Decree that included a schedule to promulgate replacement criteria. Missouri ultimately developed a “combined criterion approach” to set an allowable concentration of nutrients in its lakes designed to protect their aquatic life designated uses and EPA approved the criteria.

MCE alleges in its Complaint and argues in its Motion for Summary Judgment filed September 25, 2020, that 1) Missouri’s standards do not protect the most sensitive designated uses; 2) Missouri based its standards on sport fish, not on all aquatic life; and 3) the public, including MCE, did not have an opportunity to comment on the State’s Implementation Plan.

In late August and September, MCE and Defendants (EPA and the State of Missouri, who was permitted to intervene) entered into a court ordered mediation. Mediation concluded upon reaching an impasse.

KEY EXTERNAL STAKEHOLDERS:

☐ Congress      ☐ Industry      ☒ States      ☐ Tribes      ☐ Media      ☒ Other Federal Agency  
☒ NGO      ☐ Local Governments      ☐ Other (name of stakeholder) \_\_\_\_\_

MOVING FORWARD:

Continue briefing schedule outlined above.

LEAD OFFICE/REGION: REGION 7      OTHER KEY OFFICES/REGIONS: OST, OGC, DOJ